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JUN 7 2006

In re Application of:  
FREDERICK ET AL  
Serial No.: 10/087,322  
Filed: February 28, 2002  
Title: Methods and Apparatus for Sensing Angular  
Position and Speed of a Rotatable Shaft Utilizing  
Linearized Annular Magnet and Commutated  
Ratiometric Hall Sensors

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DECISION ON PETITION  
TO WITHDRAW HOLDING  
OF ABANDONMENT

This is a decision on the petition filed May 20, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned for failure to timely reply to the non-final Office action mailed July 8, 2003, setting a three-month period of response. A Notice of Abandonment was mailed on March 16, 2004.

Petitioner asserts that an Amendment and Response to the non-final Office action was timely mailed to the US Patent and Trademark Office on November 10, 2004 via regular mail. This is evidenced by 1) a copy of the Amendment and Response to the non-final Office action, 2) a copy of the Transmittal Form containing the certificate of mailing and 3) a statement attesting to the personal knowledge of the mailing of the Amendment and Response.

The review of the application file reveals that the Amendment and Response to the July 8, 2003 Office action was received and matched with the file. However, the Amendment and Response became separated from the Transmittal Form and thus the certificate of mailing was not ascertainable and consequently the application was held to be abandoned. The application is not abandoned in fact.

The procedure for determining whether a response is considered timely filed by being mailed but not received in the Office is set forth below.

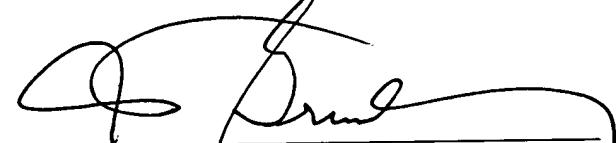
Under 37 C.F.R. § 1.8, correspondence which includes a certificate of mailing, stating the date of deposit, may be considered timely even if not received timely by the Office. The Office must receive 1) timely notification of the previous mailing, 2) an additional copy of the previously mailed correspondence and certificate, and 3) a statement which attests on a personal knowledge basis that the earlier correspondence was timely mailed. Absent such a certificate of mailing, under 37 C.F.R. § 1.6, correspondence received by Office is stamped with the date of receipt, unless the correspondence was deposited as "Express Mail" or as a facsimile transmission.

The petition meets the conditions of 37 CFR § 1.8(b) to establish the previous timely filing of the Amendment and Response.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the technical support staff for processing the Amendment and Response to the non-final Office action. From there the application file will be forwarded to the examiner of record for consideration of the Amendment and Response and prompt appropriate action.

Any inquiry regarding this decision should be directed to Jose G. Dees, Special Program Examiner, at (571) 272-1569.



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